

housing appeals committee



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Comprehensive Permit Law *Fact Sheet*

Passed in 1969, the Massachusetts Comprehensive Permit Law (Chapter 774 of the Acts of 1969 a.k.a. Chapter 40B of the Mass. General Laws) is designed to increase the supply and improve the regional distribution of low- or moderate-income housing by allowing a limited override of local requirements and regulations which are inconsistent with local and regional affordable housing needs.

How it works

A proposal to build affordable housing must receive preliminary approval from a state or federal housing program, in the form of a Determination of Project Eligibility or Site Approval letter in accordance with 760 CMR 30.00 and 760 CMR 31.00. The approval letter and preliminary development plans must be filed with an application to the local zoning board of appeals (ZBA). The ZBA then notifies stakeholders and seeks recommendations from other local boards, including the:

Planning Board
Survey Board
Board of Health
Conservation Commission
Historical Commission
Water or Sewer Commission
Fire, Police or Traffic department
Building Inspector or similar official

The ZBA must open a hearing within 30 days of receiving an application, to address health, safety, environmental, design, open space and other concerns, and must render a decision within 40 days of the date the hearing is closed.

In rendering its decision, the board acts on behalf of all other local boards and officials, but only with regard to matters where local restrictions are more stringent than state requirements. The board may issue *a single comprehensive permit which subsumes all permits*

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and approvals normally issued by other local boards. The ZBA can also include reasonable conditions in the comprehensive permit to protect the health and safety of the municipality's residents.

If an application for a permit is denied or granted with conditions that would make construction economically infeasible, the developer may, within 20 days of the decision, appeal the ZBA's decision to the Housing Appeals Committee. However, a denial by the local ZBA will be upheld if more than 10% of the municipality's total housing units are subsidized low and moderate income housing units. A decision of the Housing Appeals Committee may be appealed to the Superior Court.

Prior to construction, the subsidizing agency must grant final approval of the project and the applicant must present final detailed construction plans to the building inspector.

**Who
is eligible**

Any public agency, non-profit organization, or limited dividend organization (i.e. a developer who agrees to limitations on profits).

**For further
information**

Please contact the Housing Appeals Committee at (617) 573-1520 or visit DHCD's website at www.mass.gov/dhcd/toolkit/default.htm.